

MINUTES OF THE REGULAR MEETING OF THE BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS

FOR MAY 2, 2007

The **Regular Meeting** of the Council of Commissioners was called to order Wednesday, **May 2, 2007** in the Council Chambers, Third Floor, Room 312, Courthouse Building, 155 West Granite Street, Butte, Montana by Chief Executive Paul Babb

ROLL CALL

12 present, 0 absent

PRAYER

Commissioner Lee led the Commissioners in prayer.

APPROVAL OF THE MINUTES OF THE APRIL 18, 2007 REGULAR MEETING

It was moved by Commissioner O'Leary, seconded by Commissioner Lee carried by a unanimous verbal vote to approve the Minutes of the April 18, 2007 Regular Meeting.

ITEMS NOT ON THE AGENDA – SUSPENSION OF THE RULES

It was moved by Commissioner O'Leary, seconded by Commissioner Lee that in accordance with the provisions of Section 6 of Rule VI of the Rules of Business of the Council of Commissioners of the City and County of Butte-Silver Bow, State of Montana, the Council hereby finds that an emergency condition exists which requires that the Council rules be suspended to allow Council Communications No. 07-309 and 07-310 to be added to the Agenda of tonight's Regular Meeting of the Council

PUBLIC COMMENT ON ANY PUBLIC MATTER NOT ON THE AGENDA

None

CHIEF EXECUTIVE'S REPORT

Chief Executive reported to the council on the Economic Development Summit. It's a once in a lifetime deal to see three billionaires that flew their corporate jets

into Butte, Montana to address not only the people of Butte, Montana and SW Montana but the rest of the state. It was great to see 2500 people up at Montana Tech. Montana Tech, the city, the local government, the Chamber of Commerce, Butte Local Development Corporation, the state – everybody pulled together. It was truly amazing what Tech did. He feels a lot of good is going to come out of our chance of showcasing not only the state but Butte, Montana.

He recommends everyone go out to see the 3 Bears Store who just had their grand opening. This really is a partnership with all the taxpayers of Butte-Silver Bow because this council did grant a tax abatement. We've also assisted with Hard Rock money that they will be working through an SID to get the road paved. Great people to work with.

BCD Travel had their ribbon cutting today. They are in the old Smith Building on the corner of Platinum and Excelsior. Their grand opening was today. They hope in the not too distant future they are going to have 100-150 employees.

Tomorrow you are all invited to the Agri-Business Day at the Copper King. This Friday on the Courthouse steps we will have Take Back the Night, a stand against violence in our city.

We have been working on getting the pool open. We had a firm in last Thursday. We're waiting for their evaluation. We will have another one on Friday. The Public Works have started working on the curb and gutter, addressing the cracks.

SECTION I

PUBLIC HEARING

FOR THE PURPOSE OF HEARING COMMENT CONCERNING THE BUDGET TO ALLOW FOR EXPENDITURE OF UNANTICIPATED REVENUE IN THE CIVIC CENTER BUDGET. (Communication No. 07-228 being held in Committee of the Whole) **Proof of publication was noted and placed on file.**

Bill Melvin, Civic Center Manager, handed out a fact sheet to the Commissioners. He noted that they made substantially more money so far at the Civic Center in their concessions. Unfortunately, we spent money for products and labor. They did not sign the Daredevils Basketball team until after the budget was submitted for 06-07. Therefore, we didn't have them anticipated as related to costs and labor. The other event that we did not have in this budget was the National Wrestling Tournament. This will be another large concession event. The anticipated revenue forecast for 06-07 budget for concessions was \$100,000. To date the revenue for concessions is \$154,000. They are asking for \$50,000.00 of that amount. They are not sure they will use all of it but they will use it to put on

the remaining events. Whatever would be left over would go back to the General Fund.

Chief Executive Babb then opened the public hearing at 7:40PM and called for proponents. On the third and final call there being none he called for opponents. Again there was no response so he called the public hearing closed at 7:41 PM.

SECTION II

PUBLIC HEARING

FOR THE PURPOSE OF HEARING COMMENTS REGARDING PRIORITIZATION ON PROJECTS FOR ALLOCATION OF COMMUNITY TRANSPORTATION ENHANCEMENT PROGRAM FUNDS. (Communication No. 07-249 being held in Committee of the Whole) **Proof of publication was noted and placed on file.**

Dori Skrukrud, Assistant Community Development Director, gave the staff report. This public hearing is to solicit public comment regarding the prioritization of projects for the local CTEP funding. They have a preliminary recommendation before this body that would move the Public Archives project forward as the Community's priority project and allocate the available funding in the amount of \$450,000 for this project.

Chief Executive Babb then opened the public hearing at 7:42PM and called for any proponents. The following came forth:

1. Ellen Crain, 405 S. Excelsior, Director of the Public Archives
2. Cathy Morris, 2644 Floral Blvd.
3. Ann St. Clair, 1040 W. Platinum, Director of Montana Tech Library
4. Sandy Newman, 326 S. Excelsior
5. Zena Beth McGlashan, 1700 Gaylord
6. John Lasky
7. Brian Holland, 1600 W. Steel
8. Laurel Egan, 306 Blacktail Canyon
9. Shane Wolstein, 2115 George
10. James Johnson, 1000 S. Dakota
11. Gail Barrett, 807 W. Silver
12. Tim McLean, 23 Cedar Lake Drive
13. Jim Harrington, 2630 Nettie
14. Elaine Howard, Box 682, Butte, MT
15. Sara Sparks 615 13th

There being no further proponents, Chief Executive Babb called for opponents. On the third and final call there being no response, he called the public hearing closed at 7:51PM

SECTION III

PRESENTATION COMMUNICATION NO. 07-225

Brad Borst, Montana Wilderness Associations, requesting time on the 5/2/07 agenda to make an informational presentation.

Brad Borst came to the microphone and told he has brought some of the partners with him to speak tonight. He said they want to maintain three things to Butte-Silver Bow County and the Beaverhead Deer Lodge National Forest: high-wage jobs in the woods; healthy forest that reduce Forest Fire risk and our beloved Montana outdoor heritage. The Beaverhead-Deer lodge Partners are Sun Mountain Lumber, Montana Wilderness Association, RY Timber, Montana Trout Unlimited, Pyramid Mountain Lumber, Rosesburg Forest Products, National Wildlife Federation and Smurfit Stone contain representing over 1400 workers in the timber and wood products and over 22,000 Montanans that enjoy backcountry outdoor traditions. This plan is a draft because they know it is still a work in progress. They are committed to sitting down and working with stakeholders to improve their proposal. This dialogue – which continues – has to date resulted in 30 recommended boundary changes to proposed wilderness, timber, wildlife, winter and summer recreation areas. He then called on Tony Coulter of Sun Mountain Lumber in Deer Lodge. This is the draft legislation that we came out with in February of this year. We are still trying to meet with motorized recreation groups, county commissioners and other groups that haven't wanted to meet with us at all. He asked the commission for some kind of direction for the groups that don't want to be involved with this process.

Jack Mahon from Townsend. He is here to make a presentation prepared by Ed Regan of RY Timber in Townsend. This family-owned company produces 17% of the structural lumber that is manufactured in Montana. They employ 200 sawmill workers and approximately the same number of contract loggers and truckers scattered throughout the states of Montana, Idaho and Wyoming. There is a need for a steady supply of logs. To sustain Montana's remaining mills it takes approximately 600 million board feet of logs each year. Without an increase in the Forest Service annual timber harvest program, Montana's timber industry will continue to shut down. They support the Beaverhead Deer Lodge Partnership compromise. He handed out copies of this.

Sherm Anderson, Deer Lodge, Montana, owner of Sun Mountain Lumber. He asked for the Council's continued support. They employ about 300 people. The annual payroll is in excess of three million dollars. If we do not set aside our differences and come to a collaborative agreement of what needs to be done on our national forest, we are going to continue with exactly what we have now. Sun Mountain has less than 5% of their timber base on national forest. There's only two ways to manage a forest and that's either mechanically, through mechanical treatment as we do, or by fire. We go away the second will take care of it. It's

not if it will, it's when it will. That's why we have joined forces to try to do something about that.

Bruce Farley, Executive Director of Montana Trout Unlimited. He lives at 232 West Sessex Gulch, Missoula. He represents 3400 Trout Unlimited members in the state who are supportive and helped craft the partnership proposal. We are proposing a plan for this national forest that puts it back to work. This is how it works. You will take a large landscape on the forest, you'll put together a team of different interests (motorized, non-motorized, fish, wildlife, timber, grazing). They will be a team that will help the Forest Service design that project so that you can take some trees out of there in an environmentally responsible fashion and importantly it's the value of that timber doesn't go back to D.C. It goes back to the local forest, back to that landscape, to invest in the things that Forest Service does not have the money for now. Fixing the trails, fixing the campsites, fixing the damaged fishery habitat, spraying the weeds in the winter range for the elk, etc. I hope you will continue your support.

Chris Marchion, 2105 Garfield in Anaconda, MT. He explained that while not an official member of the Partnership, he has a long history of advocating for the public's management of our resources and access to those resources. The best action that we can take to make forest management work better is to find a paradigm that brings more members of the public together to work in a collaborative cooperative setting. The Partnership agreement is the chance to create that working environment for this forest planning cycle.

It was moved by Commissioner O'Leary, seconded by Commissioner Lee and passed by a unanimous verbal vote to place Communication No. 07-225 on file.

The Council then recessed for five minutes. A roll call of 12 present, 0 absent was taken and Council was back in session at 8:45PM

SECTION IV

PRESENTATION COMMUNICATION NO. 07-285

Mark and Scott Thompson, SMT Holdings, LLC, requesting Hard Rock Mining Funds and time on 5/2/07 agenda to make a presentation on the Montana Freeport Center.

Mark and Scott Thompson of SMT Holdings, LLC came to the microphone to explain their project. They have run out of room at their present location and are proposing to buy the Safeway Warehouse. They went over the needs to bring the rundown warehouse back for their use. They showed a power point of the warehouse building and explained the improvements they intend to make. They do have three tenants – Big Sky Carvers, Montana Silversmiths and Smith

Contracting. He passed out a list of their expenses they will have. Right now they foresee about \$815,000 in upgrades. They are hoping for help from the Hard Rock Funds for the cooling system and also the Fire Suppression System. They will be responsible for a little over \$500,000. They are hoping to get \$153,583 of Hard Rock Funds. He said they had already been with the TIFID Board and requested \$153,583. They want the Council to match that amount with the Hard Rock Funds. With Thompson Distributing in this building they will have a total of 10 local businesses in this facility. They have hope that it can be a full blown distribution center servicing Idaho, Wyoming, parts of Oregon, Nevada, and Washington. There will be about 100 jobs when we are in that facility.

It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried with a unanimous verbal vote to refer Communication No. 07-225 to the Committee of the Whole.

SECTION V

CONSENT AGENDA

- A.**
 - 1. COMMITTEE OF THE WHOLE MEETING REPORT
 - 2. FINANCE AND BUDGET COMMITTEE MEETING REPORT
 - 3. JUDICIARY COMMITTEE MEETING REPORT
 - 4. PUBLIC WORKS COMMITTEE MEETING REPORT
 - 5. PERSONNEL COMMITTEE MEETING REPORT

- B.**

PETITIONS

- C.**

COMMUNICATIONS

Before entertaining a motion for approval of the Consent Agenda, Chief Executive Babb called for any segregation. Commissioner O’Leary called for a “friendly amendment” to Section V-C, Item No. 29, Communication No. 07-292, He wishes to add the recommendation of “Concur and place on file”.

It was then moved by Commissioner O’Leary, seconded by Commissioner Lee and carried with a unanimous verbal vote to approve the Consent Agenda, Section A, Items 1 through 5, Section B, Item 1 and Section C, Items 1 through 44.

SECTION VI

COMMUNICATIONS TO BE READ AND ACTED UPON

- 1. 07-308 Charlie O’Leary, regarding issues within the Beaverhead Deer Lodge National Forest Planning process.

Commissioner O’Leary explained his reason for this letter but first deferred to the Chief Executive for his comments. Chief Executive Babb said there is a lot of

information has been given out to people. He said he has approximately 193 e-mails that have been sent to him. He will find some way that every Council member has a chance to see those. We have been receiving quite a number of calls in our office to give their support or opposition. He said when he was up at Economic Development Summit Senator Tester drew him aside and wanted to talk about this. One of the things he told me was if Southwest Montana and Montana as a whole does not get on the same page and start moving forward with comments to the Congress at the Congressional level, we are all going to lose. Other big groups will step in and they will start deciding the fate for us. We discussed how to we bring people together so we can start looking at collaboration and compromise. He thought that if we could bring people to the table and start talking about those issues we would all be better off. I also talked with his field representative today and she said that if we need to bring some people in where we could bring in a facilitator to guide us through this and bring other groups to the table, they would be more than happy to assist us with that. She also told him that they did visit with Mike McGinley, Beaverhead County Commissioner and Mike said that he would be willing to go to the table. He said he plans to call Mr. McGinley.

Commissioner O'Leary does not support rescinding our support of the Partnership Strategy. He does support getting everyone together and in discussions. Commissioner O'Leary said he does not intend to make a motion on whether to rescind or reaffirm our support. On the second part of his letter regarding the Beaverhead County Commissioners request to have the surrounding counties help them write a Wilderness Bill, he believes they should not do it. **He then made a motion for the council to go on record to respectfully decline participation in the effort to write a Wilderness Bill. The motion was seconded by Commissioner Lee and carried by a unanimous verbal vote with Commissioner Moodry voting nay.**

Now considering the emergency communications

Communication No. 07-309 – Barb Coffman, Montana Section, American Water Works Association (MSAWWA) Executive Secretary, requesting waiver of license fee to conduct a non-profit raffle at their joint conference 5/9-11/07.

It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a unanimous verbal vote to concur with the request in Communication No. 07-309 and place on file.

Communication No. 07-310 – John VanDaveer, Director of Public Works Department, Requesting authorization for Chief Executive to execute Memorandum of Understanding (Amended) between Butte-Silver Bow and the US Forest Service for the joint maintenance services for Thompson Park.

**SECTION VII ORDINANCES AND RESOLUTIONS –
REFERRED TO JUDICIARY**

ORDINANCES AND RESOLUTIONS – REFERRED TO JUDICIARY

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE PRELIMINARY PLAT OF THE SUNSET NORTH MAJOR SUBDIVISION OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PROVIDING FOR THE REPEAL OF ALL PARTS OF RESOLUTIONS IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

A RESOLUTION RESCINDING BUTTE-SILVER BOW COUNCIL
RESOLUTION NO. 1762 WHICH AUTHORIZED THE SALE OF PARCEL
NO. 1906355 TO ROBERT L. MC LAUGHLIN AND PROVIDING FOR AN
EFFECTIVE DATE HEREIN.

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE PRELIMINARY PLAT OF THE SAWMILL MINOR SUBDIVISION OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PROVIDING FOR THE REPEAL OF ALL PARTS OF RESOLUTIONS IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE FINAL PLAT OF THE WHISKEY GULCH MINOR SUBDIVISION OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PROVIDING FOR THE REPEAL OF ALL PARTS OF RESOLUTIONS IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE HEREIN

SECTION VIII

ORDINANCES AND RESOLUTIONS – FINAL READING

**1. COUNCIL BILL NO. 06-2
ORDINANCE NO. 06-2**

AN ORDINANCE AMENDING SECTION 4 OF ORDINANCE NO. 204 AND SECTION 10.40.050 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED "SPEED LIMIT;" ESTABLISHING A 35 MPH SPEED LIMIT ON HANSEN ROAD BEGINNING AT ITS INTERSECTION WITH BEEF TRAIL ROAD AND MONTANA STREET ON THE NORTH AND CONTINUING SOUTH TO A POINT 0.702 MILES ON THE SOUTH; ESTABLISHING A 25 MPH SPEED LIMIT ON HANSEN ROAD FROM A POINT 0.971 MILES SOUTH OF ITS INTERSECTION WITH BEEF TRAIL ROAD AND MONTANA STREET ON THE NORTH TO HOLMES AVENUE ON THE SOUTH AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a roll call vote of 12 yeas and 0 nays to place Council Bill No. 06-2, Ordinance No. 06-2 on final reading and passed having been deemed fully read at length.

**2. COUNCIL BILL NO. 07-5
ORDINANCE NO. 07-5**

AN ORDINANCE AMENDING BUTTE-SILVER BOW ORDINANCES NO. 7 AND 53 AND CHAPTERS 2.48 AND 17.54 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED "BOARD OF ADJUSTMENT"; AMENDING SECTIONS 2.48.090 AND 17.54.090, B-SB MC; DELETING REFERENCE TO APPEAL TO THE COUNCIL OF COMMISSIONERS IN ACCORDANCE WITH SECTION 76-2-327, MCA AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a roll call vote of 12 yeas and 0 nays to place Council Bill No. 07-5, Ordinance No. 07-5 on final reading and passed having been deemed fully read at length.

3. COUNCIL RESOLUTION NO. 07-10

A RESOLUTION APPROVING THE BUTTE-SILVER BOW DUI TASK FORCE PROGRAM FOR FISCAL YEAR BEGINNING 2007 AND APPROVING THE TRANSFER OF CERTAIN ASSETS AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a roll call vote of 12 yeas and 0 nays to place Council

Resolution No. 07-10 on final reading and passed having been deemed fully read at length.

4. COUNCIL RESOLUTION NO. 07-25

A RESOLUTION AUTHORIZING THE SUBMISSION OF AN APPLICATION WITH THE DEPARTMENT OF COMMERCE OF THE STATE OF MONTANA, FOR A MONTANA COMMUNITY DEVELOPMENT BLOCK GRANT UNDER THE TERMS OF THE COMMUNITY DEVELOPMENT ACT OF 1974 (42 USC 5301) AS AMENDED.

It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 12 yeas and 0 nays to place Council Resolution No. 07-25 on final reading and passed having been deemed fully read at length.

5. COUNCIL RESOLUTION NO. 07-26

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE AMENDED PLAT OF LOT 5 IN BLOCK 10 OF THE HILLCREST ADDITION OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PROVIDING FOR THE REPEAL OF ALL PARTS OF RESOLUTIONS IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 12 yeas and 0 nays to place Council Resolution No. 07-26 on final reading and passed and passed having been deemed fully read at length.

6. COUNCIL RESOLUTION NO. 07-28

A RESOLUTION VACATING, CLOSING, DISCONTINUING AND ABANDONING A PORTION OF HENRY STREET LYING SOUTH OF THE SOUTH LINE OF WEST COPPER STREET AND NORTH OF THE NORTHERN BOUNDARY LINE OF THE LAURA FRACTION LODE, MINERAL SURVEY NO. 2499 BETWEEN BLOCKS 3 AND 4 OF THE VOLUNTEER NO. 2 ADDITION WITHIN THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PRESCRIBING THE EFFECTIVE DATE OF THIS RESOLUTION AND FINDING THE NECESSARY FACTS HEREIN.

It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 12 yeas and 0 nays to place Council Resolution No. 07-28 on final reading and passed having been deemed fully read at length.

7. COUNCIL RESOLUTION NO. 07-29

A RESOLUTION CREATING SPECIAL IMPROVEMENT DISTRICT NO. 1027 FOR THE PURPOSE OF MAINTAINING AND INSTALLING AN ELECTRICAL LIGHTING SYSTEM; DESIGNATING AND DESCRIBING THE BOUNDARIES OF SAID PROPOSED SPECIAL IMPROVEMENT LIGHTING DISTRICT; STATING THE PURPOSE OF AND THE GENERAL CHARACTER OF THE IMPROVEMENTS TO BE MADE IN SAID SPECIAL IMPROVEMENT DISTRICT; ESTIMATING THE APPROXIMATE COST OF MAINTAINING AND SUPPLYING ENERGY THEREOF FOR THE FIRST YEAR; FINDING, DETERMINING, AND DECLARING THAT SUCH PROPERTY SHOULD BE ASSESSED FOR COST THEREOF OF MAINTENANCE AND ENERGY AND EXTENDING SUCH ASSESSMENT TO BE IN SEMI-ANNUAL INSTALLMENTS AND PROVIDING FOR THE FUND UPON WHICH SAID SPECIAL IMPROVEMENT FUNDS SHALL BE DRAWN; WITHDRAWING ALL PROPERTY DESCRIBED IN EXHIBIT "A" FROM OTHER SPECIAL IMPROVEMENT LIGHTING ASSESSMENTS AND FINDING THE NECESSARY FACTS HEREIN.

It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a roll call vote of 12 yeas and 0 nays to place Council Resolution No. 07-29 on final reading and passed having been deemed fully read at length.

ADJOURN

There being no further business to come before the Council, it was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a unanimous verbal vote to Rise to the Call of the Chair.

The meeting adjourned at 9:45 PM

CHIEF EXECUTIVE

ATTEST:

CLERK AND RECORDER